

**Summary of Ninth Negotiation Session on
New Water Supply Agreement**

Date of Session: June 23, 2003
Place: Santa Rosa Laguna Pumping Plant
Time: 9:00 AM – Noon

Parties Present and Represented:

Cities: Cotati, Petaluma, Santa Rosa, Sonoma, and Windsor.
Districts: North Marin, Marin Municipal, Sonoma County Water Agency,
Valley of the Moon Water District, and Forestville Water District

Attachment A contains complete list of attendees.

Opening

Chris Sliz, acting for chairman Miles Ferris and Interest Based Negotiation facilitator, opened the meeting inviting public comment. There was none.

Voting Method

Voting represents the consensus of the ten parties (Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, Windsor, Forestville Water District, North Marin Water District, Marin Municipal Water District (MMWD) and Valley of the Moon Water District). Each of the ten has one vote to cast pursuant to the rule adopted by the WAC at its meeting of September 9, 2002, namely:

- Decision making style: Consensus (defined as all parties agreeing they are either (a) for an issue (thumbs up), (b) can live with it (thumbs horizontal) or (c) opposed (thumbs down). Vote results are reported when taken as (a/b/c).
- If parties can't come to consensus, table the issue and deal with it at the end of the negotiation.

Recap of Prior Negotiation Session

Consultant John Nelson reviewed discussions that took place at the May 19th session. The parties then approved the minutes of the prior session and took up the following.

Final Governance Issues Language

Randy Poole, presenting SCWA's position on suggested Governance issues, suggested the following:

After discussion, the parties voted 4/6/0 to delete the very detailed language suggested by the SCWA regarding recording votes on a matter under the WAC's discretion and insert language stating that an affirmative vote of the WAC would be recorded.

Mr. Nelson said he would bring the Section of the Agreement dealing with the Water Advisory Committee, including related language agreed to on Governance Issues, to the WAC in its entirety at the next meeting for consideration of approval.

Proposed Letters to MMWD

Mike Martini, Santa Rosa, reviewed the Board of Public Utilities and City Council's view that the letter currently being considered to send to MMWD (see Attachment B) went too far in offering terms before determining MMWD's interest in becoming a Prime contractor and associated benefits. He said the City recommends the WAC simply send a letter asking MMWD to express its interest in becoming a Prime and set forth benefits of such a change in the status quo. After debate involving all parties, many expressing the view they wanted to get on with the negotiation, a vote was taken by the parties present (MMWD choosing to not participate in the vote) who decided 8/0/1, (Santa Rosa opposed) to send the letter as currently drafted. Santa Rosa's representative indicated that sending this letter was not a deal breaker for the City.

Continued Negotiation of 21 Key Issues in Contention between SCWA and WAC

The parties then moved on to the Key Issues in Contention, focusing their attention on the language suggested by Agency counsel Steve Shupe addressing Planning and Watershed Issues (Attachment C), Addition of New Facilities Issues (Attachment D, and Recycled Water Issues (Attachment E). Mr. Nelson noted this was a work in progress and that he would recommend different language for some of the items.

Planning and Watershed:

Section 4.1: Chris DeGabriele asked how the current Russian River Conservation Charge and Russian River Projects Charge (paid by Marin County customers) would be handled under Agency's proposal to include a new Environmental Compliance Charge and Watershed Planning and Restoration Charge. Pam Jeane said she would investigate and report back on that. The parties deferred other discussion of the separate charges suggested by the Agency except for proposed new charges for Conservation, Recycled Water and Planning/Watershed Restoration. It was noted that if MMWD is not included as a Prime, all separate charges should be eliminated and replaced with identification of separate funds, all supplied revenue from the Operation and Maintenance Charge, in order to preserve MMWD paying its fair share.

Section 4.12 (b): Ron Theisen pointed out and the parties agreed that the phrase “including a reasonable allowance for usual contingencies and errors in estimation, and to accumulate and maintain a prudent reserve in an amount determined from time to time by the WAC.” should be deleted as it appears in a lead paragraph applying to the entire SCWA budget process and therefore is redundant to include here.

Section 2.7 (a): Parties agreed language developed by the WAC in response to Framework Issue A pertaining to “Providing ample opportunity for input from the public and the water contractors” should be added to the first sentence. Also that the words “draft Urban Water Management Plan” should be replaced with “ Regional Urban Water Management Plan”.

Section 2.7 (b): Parties agreed that language developed by the WAC in response to Framework Issue F pertaining to input from the public and input/participation/funding from responsible agencies/organizations and other beneficiaries be added to this Section. That calling out “TMDL studies, funding of third-party studies and projects” in the first sentence is too explicit and should be deleted. Further that the references Section 2.7 (appears twice in second sentence) should be Section 2.7 (b) and (c). And further, that “approved by the Agency” in last sentence should be augmented to include “ and WAC”.

Section 2.7 (c): It was agreed that to avoid confusion and redundancy regarding this subsection dealing with the SCWA carrying out projects that benefit one or more water contractors (less that all of the signers of the proposed new agreement), that it be covered in the section with “Addition of New Facilities”.

Addition of New Facilities:

Definition (hh,nn) “Transmission System”: Parties oppose expanding definition of Transmission System to include the Potter Valley Project, recycled water facilities, and recreation facilities as this would make the WAC responsible for all O&M expense.

Section 1.6: Mike Martini noted amending entitlements unilaterally would affect weighted WAC voting and wondered how this should be dealt with from view point of Primes not participating in an added project. It was noted that relative to the existing language of Section 1.6 that Randy Poole agreed to provide WAC, at its regular meeting scheduled for July 7th, a written step-by-step advisory on how to proceed to obtain assurances regarding water supply from Agency pursuant to SB 610 and SB 221 (now passed and chaptered as State law).

Section 2.3: Wherever language like “rate of delivery of water that would have been available, daily average per month deliveries, additional annual deliveries, etc.” appears, parties agreed it needs to be deleted and reference to “entitlements set forth in Section 3.1 or as amended from time to time pursuant to Section 1.6” be inserted.

Recycled Water:

Regarding new definitions, parties agreed “recycled water” definition should be changed to reference California Code of Regulations Title 22. The parties also agreed that a “date certain” be included in the “recycled water project” definition, such as “implemented after July 1, 1999”.

Section 1.13: Consensus was that:

- 5 year period is unrealistic and should be extended to 10 years,
- that penalty provisions be deleted and in lieu thereof, WAC commit to a fixed Recycled Water Charge - \$25 per ac-ft was suggested as being sufficient to raise about \$2,000,000 per year estimated to be about 50% of the funding requirement to accomplish the goal of a 5% regional reduction – the other half to come from local governments, including participation from local wastewater utilities.

Lastly, the parties agreed that “local projects” as defined and prioritized pursuant to the MOU re. Interim Impairment should be considered the same as and compete head-to-head with recycled water projects.

John Nelson said he would work up redrafts and confer with Agency and present progress and new language for the parties to review at its next session.

Follow-up Tasks for Next Session

1. Recap of June 23rd Negotiation Session (Nelson).
2. Review and consider approval of Water Advisory Committee Section - including changes agreed to re. Governance Issues (Nelson)
3. Review of response from MMWD to letter sent by WAC (if available) (DeGabriele)
4. Response from Agency explaining how the current Russian River Conservation Charge and Russian River Projects Charge (paid by Marin County customers) would be impacted/handled under Agency’s proposal to Include a new Environmental Compliance Charge and Watershed Planning and Restoration Charge (Pam Jeane)
5. Continued Negotiation of Key Issues in Contention between WAC and Agency:
 - a. Planning and Watershed
 - b. Addition of New Facilities
 - c. Recycled Water and Local Projects
 - d. Other Key Issues (as time permits)

Next Negotiation Session

Time and Date: 9:00 AM-12:00 PM, July 28, 2003
Place: Santa Rosa’s Laguna Treatment Plant

Attachment A

Attendees Of Water Advisory Committee Negotiation Session of June 23, 2003

Attendees:

- Chris Sliz, City of Santa Rosa
- Jane Bender, City of Santa Rosa
- Mike Martini, City of Santa Rosa
- Virginia Porter, City of Santa Rosa
- John Nelson, John Olaf Nelson Water Resources Management
- Chris DeGabriele, North Marin Water District
- Syed Rizvi, North Marin Water District
- Al Bandur, City of Sonoma
- Toni Bertolero, City of Cotati
- Janet Orchard, City of Cotati
- Ron Theisen, Marin Municipal Water District
- Steve Phelps, Marin Municipal Water District
- Paul Berlant, Town of Windsor
- Matt Mullan, Town of Windsor
- Lee Harry, Valley of the Moon Water District
- Ron Prushko, Valley of the Moon Water District
- Mike Ban, City of Petaluma
- Steve Simmons, City of Petaluma
- Pam Jeane, Sonoma County Water Agency
- George Roberts, Forestville Water District

Public Attendees:

- Brenda Adelman, RRWPC
- Don McEnhill, League of Women Voters